

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: House Bill 119

**COMMITTEE: Finance
Education, Health, and Environmental Affairs**

POSITION: Support

TITLE: Children's Products Containing Lead - Modifications

BILL ANALYSIS:

This bill amends Chapter 483 of the 2008 Acts (House Bill 62) and eliminates conflicts between the current State and federal laws, which could give rise to federal preemption issues concerning the federal Consumer Product Safety Act of 2008 (HR 4040 enacted August 14, 2008). It also exempts sales of children's products at thrift stores, consignment stores, yard sales, and any other secondhand point of sale from requiring a certificate that certifies that the children's product is not a lead-containing product.

POSITION AND RATIONALE:

The Department supports House Bill 119. On October 30, 2008, the Department informed the Chairman of the Joint Committee on Administrative, Executive and Legislative Review (AELR) that it would work with the bill's sponsor to accommodate the federal pre-emption issues that arose after the enactment of the federal law in August 2008. The revisions to the Maryland law are based on the September 16, 2008 advice to the AELR Chairman from the Office of the Attorney General.

The revisions include changes to the definition of "child" to mean an individual under the age of 13 years as in the federal law, exempts any component part of a children's product that is not accessible to a child through normal and reasonably foreseeable use and abuse of the product from the definition of "children's product," and allows an electronic device containing lead that is in compliance with the federal law and a

product or material excluded by the federal law to be exempt. The bill also would require a manufacturer to test whether a children's product is a lead-containing product by using a testing entity qualified or certified under federal law.

These changes will eliminate conflicts between the current State and federal laws, which could give rise to federal preemption issues concerning the federal Consumer Product Safety Act of 2008. Additionally, the bill would exempt sales of children's products at thrift stores, consignment stores, yard sales, and any other secondhand point of sale from the burden of requiring a certificate that certifies that the children's product is not a lead-containing product.

There is no fiscal impact or operational effect of this legislation on the Department.

FOR MORE INFORMATION,
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